

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Ina Steiner,
David Steiner,
Steiner Associates, LLC,

Plaintiffs,

v.

eBay, Inc.,
Progressive F.O.R.C.E. Concepts, LLC,
Devin Wenig,
Steve Wymer,
James Baugh,
David Harville,
Brian Gilbert,
Stephanie Popp,
Stephanie Stockwell,
Veronica Zea,
Philip Cooke, and
John and Jane DOE,

No. 1:21-cv-11181-DPW

Defendants.

**DEFENDANT DEVIN WENIG'S MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL REPLY IN SUPPORT OF HIS MOTION TO DISMISS**

Defendant Devin Wenig seeks leave to file a supplemental reply in support of his motion to dismiss in response to the supplemental opposition and extrinsic materials that Plaintiffs filed on October 1, 2022. *Cf.* Dkt. 146.

1. On September 29, 2022, Plaintiffs sought leave to file certain specified “documents,” specifically, sentencing memos submitted by criminal defendants Jim Baugh and David Harville, a letter Baugh submitted to the sentencing judge, and (as-of-then unavailable) transcripts of the respective sentencing hearings. Dkt. 144.

2. On September 30, 2022, the Court granted Plaintiffs’ motion. Dkt. 145.

3. The following day Plaintiffs filed the documents that they had received leave to file. Dkt. 146-1, -2, and -3.

4. At the same time, Plaintiffs also filed a supplemental brief in opposition to Wenig’s motion to dismiss even though they had neither sought nor received permission to do so. Dkt. 146.

5. Plaintiffs’ supplemental brief contains numerous misrepresentations about the extrinsic documents that Plaintiffs submitted.

6. Wenig requests permission to file the supplemental reply attached as Exhibit 1 in response to Plaintiffs’ supplemental opposition so that the Court has a complete and accurate understanding of the record when resolving Wenig’s pending motion to dismiss.

7. Counsel for Wenig emailed Plaintiffs’ counsel, advised her of Wenig’s intent to file this motion, and asked whether Plaintiffs would oppose it. Counsel for Wenig received no response from Plaintiffs’ counsel.

Dated: October 11, 2022

Respectfully submitted,

/s/ Abbe David Lowell
Abbe David Lowell (*pro hac vice*)
Andrew E. Tauber (*pro hac vice*)
WINSTON & STRAWN LLP
1901 L Street, NW

Washington, DC 20036
adlowell@winston.com
atauber@winston.com
(202) 282-5000

Martin G. Weinberg, Esq.
Martin G. Weinberg PC
20 Park Plaza
Suite 1000
Boston, MA 02116
owlmgw@att.net
(617) 227-3700

Counsel for Devin Wenig

CERTIFICATE OF SERVICE

I, Abbe David Lowell, hereby certify that on this date, October 11, 2022, a copy of the foregoing document has been served via the Electronic Court Filing system on all registered participants.

/s/ *Abbe David Lowell*
Abbe David Lowell